

1-1 By: Schwertner S.B. No. 1534  
1-2 (In the Senate - Filed March 3, 2023; March 16, 2023, read  
1-3 first time and referred to Committee on Health & Human Services;  
1-4 April 24, 2023, reported favorably by the following vote: Yeas 8,  
1-5 Nays 1; April 24, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15		X		
1-16	X			

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to restrictions on covenants not to compete for physicians  
1-20 and certain other health care practitioners.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 15.50(b), Business & Commerce Code, is  
1-23 amended to read as follows:

1-24 (b) A covenant not to compete relating to the practice of  
1-25 medicine is enforceable against a person licensed as a physician by  
1-26 the Texas Medical Board if such covenant complies with the  
1-27 following requirements:

1-28 (1) the covenant must:

1-29 (A) not deny the physician access to a list of the  
1-30 ~~his~~ patients whom the physician ~~he~~ had seen or treated within  
1-31 one year of termination of the contract or employment;

1-32 (B) provide access to medical records of the  
1-33 physician's patients upon authorization of the patient and any  
1-34 copies of medical records for a reasonable fee as established by the  
1-35 Texas Medical Board under Section 159.008, Occupations Code; and

1-36 (C) provide that any access to a list of patients  
1-37 or to patients' medical records after termination of the contract  
1-38 or employment shall not require such list or records to be provided  
1-39 in a format different than that by which such records are maintained  
1-40 except by mutual consent of the parties to the contract;

1-41 (2) the covenant must provide for a buyout ~~buy-out~~ of  
1-42 the covenant by the physician in an amount not greater than the  
1-43 physician's total annual salary and wages at the time of  
1-44 termination of the contract or employment; [at a reasonable price  
1-45 or, at the option of either party, as determined by a mutually  
1-46 agreed upon arbitrator or, in the case of an inability to agree, an  
1-47 arbitrator of the court whose decision shall be binding on the  
1-48 parties; and]

1-49 (3) the covenant must provide that the physician will  
1-50 not be prohibited from providing continuing care and treatment to a  
1-51 specific patient or patients during the course of an acute illness  
1-52 even after the contract or employment has been terminated; and

1-53 (4) the covenant must provide that:

1-54 (A) it expires within one year of termination of  
1-55 the contract or employment; and

1-56 (B) the radius of the geographical area subject  
1-57 to the covenant is not greater than five miles.

1-58 SECTION 2. Subchapter E, Chapter 15, Business & Commerce  
1-59 Code, is amended by adding Section 15.501 to read as follows:

1-60 Sec. 15.501. COVENANT NOT TO COMPETE FOR HEALTH CARE  
1-61 PRACTITIONERS. (a) In this section, "health care practitioner"

2-1 means a person licensed in this state as a dentist, nurse, or  
2-2 physician assistant.

2-3 (b) An employer may not require a health care practitioner  
2-4 to enter into a covenant not to compete unless the covenant:

2-5 (1) provides for a buyout of the covenant by the health  
2-6 care practitioner in an amount not greater than the practitioner's  
2-7 total annual salary and wages at the time of termination of the  
2-8 practitioner's contract or employment;

2-9 (2) provides that it expires within one year of the  
2-10 date of termination of the contract or employment; and

2-11 (3) provides that the radius of the geographical area  
2-12 subject to the covenant is not greater than five miles.

2-13 (c) A covenant not to compete entered into by a health care  
2-14 practitioner that fails to comply with Subsection (b) is void and  
2-15 unenforceable.

2-16 SECTION 3. Section 15.52, Business & Commerce Code, is  
2-17 amended to read as follows:

2-18 Sec. 15.52. PREEMPTION OF OTHER LAW. The criteria for  
2-19 enforceability of a covenant not to compete provided by Sections  
2-20 [~~Section~~] 15.50 and 15.501 [~~of this code~~] and the procedures and  
2-21 remedies in an action to enforce a covenant not to compete provided  
2-22 by Section 15.51 [~~of this code~~] are exclusive and preempt [~~any~~]  
2-23 other law, including [~~criteria for enforceability of a covenant not~~  
2-24 ~~to compete or procedures and remedies in an action to enforce a~~  
2-25 ~~covenant not to compete under~~] common law [~~or otherwise~~].

2-26 SECTION 4. The changes in law made by this Act apply only to  
2-27 a covenant not to compete entered into or renewed on or after the  
2-28 effective date of this Act. A covenant not to compete entered into  
2-29 or renewed before the effective date of this Act is governed by the  
2-30 law in effect on the date the covenant was entered into or renewed,  
2-31 and the former law is continued in effect for that purpose.

2-32 SECTION 5. This Act takes effect September 1, 2023.

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